

DEPARTMENT OF TRANSPORTATION

UNITED STATES COAST GUARD

STATEMENT OF

CAPTAIN GENNARO S. DUCA

CHIEF OF STAFF, SEVENTH COAST GUARD DISTRICT

BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON TRANSPORTATION

AT MIAMI, FLORIDA

ON 14 OCTOBER 1985

GOOD MORNING. I AM CAPTAIN GENNARO S. DUCA, CHIEF OF STAFF,
SEVENTH COAST GUARD DISTRICT, MIAMI, FLORIDA. WITH ME IS
COMMANDER RENE ROUSSEL, CAPTAIN OF THE PORT, OFFICER IN CHARGE
MARINE INSPECTION AND COMMANDING OFFICER, MARINE SAFETY OFFICE
MIAMI, FLORIDA. I APPRECIATE THE OPPORTUNITY TO DISCUSS THE COAST
GUARD'S RESPONSIBILITIES WITH REGARD TO THE MIAMI RIVER. THE
COAST GUARD IS A MEMBER OF THE MIAMI RIVER MANAGEMENT COMMITTEE
AND WORKS CLOSELY WITH LOCAL, STATE, AND OTHER FEDERAL AGENCIES IN
EFFORTS TO IMPROVE THE NAVIGATION AND ENVIRONMENTAL CONDITION OF
THIS WATERWAY.

AS YOU KNOW, THE COAST GUARD IS A MULTI-MISSION SERVICE WITH MANY
RESPONSIBILITIES WHICH RELATE TO MARINE TRANSPORTATION AND
SAFETY. OUR SPECIFIC RESPONSIBILITIES AND AUTHORITIES ARE
CONTAINED IN A NUMBER OF THE POLLUTION PREVENTION, VESSEL
INSPECTION, AND NAVIGATION LAWS AND TREATIES. WITH RESPECT TO
PREVENTION AND MITIGATION OF WATER POLLUTION, SEVERAL LAWS APPLY.
UNDER SECTION 311 OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS
AMENDED (33 U.S.C. 1321), THE COAST GUARD HAS BEEN DELEGATED
ENFORCEMENT AND REMOVAL AUTHORITY AND RESPONSIBILITY IN CASES
WHERE OIL OR HAZARDOUS SUBSTANCES ARE DISCHARGED IN U.S. WATERS,
THE WATER OF THE CONTIGUOUS ZONE, AND OTHER OFFSHORE AREAS. THE
COAST GUARD'S RESPONSIBILITIES REGARDING MARINE SANITATION DEVICES
ARE ALSO MANDATED IN SECTION 312 OF THIS ACT (33 USC 1322). THE
ACT TO PREVENT POLLUTION FROM SHIPS (33 U.S.C. 1901 ET SEQ.)
IMPLEMENTS THE 1973 INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, AS MODIFIED BY THE PROTOCOL OF 1978 (MARPOL
73/78), AND TASKS THE COAST GUARD WITH ITS ENFORCEMENT.

THIS CONVENTION LIMITED THE AMOUNT OF OIL THAT MAY BE DISCHARGED AT SEA AND ESTABLISHED REQUIREMENTS FOR THE INSTALLATION OF POLLUTION PREVENTION EQUIPMENT SUCH AS OILY WATER SEPARATORS AND BILGE DISCHARGE MONITORS. IT ALSO SETS FORTH REQUIREMENTS THAT ALL PORTS AND TERMINALS MUST HAVE SUFFICIENT WASTE RECEPTION FACILITIES TO ACCOMMODATE OCEAN GOING VESSELS SERVICED BY THE PORT OR TERMINAL.

THE REFUSE ACT (33 U.S.C. 407) IS ENFORCED JOINTLY BY THE COAST GUARD AND THE U.S. ARMY CORPS OF ENGINEERS AND HAS BEEN INTERPRETED TO PROHIBIT THE DISCHARGE OF VIRTUALLY ANY MATERIAL INTO THE NAVIGABLE WATERS OF THE UNITED STATES. WHEN VIOLATIONS OF THE REFUSE ACT ARE SUBSTANTIATED BY AN INVESTIGATION, THE U.S. ARMY CORPS OF ENGINEERS MAY BE NOTIFIED FOR APPROPRIATE ACTION. SINCE THE ACT PROVIDES FOR CRIMINAL SANCTIONS, THE COAST GUARD MAY INSTEAD REFER THE CASE DIRECTLY TO THE DEPARTMENT OF JUSTICE.

CHAPTER 37, TITLE 46 OF THE U.S. CODE AUTHORIZES THE COAST GUARD TO REGULATE BULK LIQUID TRANSPORTATION.

THE HAZARDOUS MATERIALS TRANSPORTATION ACT, TITLE I OF THE TRANSPORTATION SAFETY ACT OF 1974 (49 U.S.C. 1801 ET. SEQ.), AUTHORIZES THE REGULATION OF HAZARDOUS MATERIALS OTHER THAN BULK LIQUIDS.

THE PORT AND WATERWAYS SAFETY ACT (33 U.S.C. 1221 ET SEQ.) GIVES

THE COAST GUARD THE BROAD AUTHORITY TO PROMULGATE AND ENFORCE REGULATIONS TO PROVIDE FOR THE SAFETY OF THE PORT AREA IN REGARD TO MAINTAINING THE SAFETY OF THE WATERFRONT, CONTROL OF VESSEL MOVEMENT, AND OTHER MEASURES TO PROMOTE SAFETY AND PREVENT POLLUTION OF THE WATERS OF THE UNITED STATES.

THE FOREGOING ARE SPECIFIC LEGAL AUTHORITIES FOR VARIOUS COAST GUARD ACTIVITIES. ON THE MIAMI RIVER, THESE ACTIVITIES CAN BE BROKEN DOWN INTO SEVERAL BROAD CATEGORIES.

1. INSPECTION OF DESIGNATED WATERFRONT FACILITIES AND MOBILE OIL TRANSFER FACILITIES
2. BOARDING OF ACTIVE VESSELS
3. MONITORING OF LAID UP COMMERCIAL VESSELS 4. INVESTIGATION AND MITIGATION OF POLLUTION INCIDENTS

THE ROUTINE WATERSIDE HARBOR PATROLS OF THE MIAMI RIVER, CONDUCTED BY CAPTAIN OF THE PORT APPROXIMATELY TWICE A WEEK, ARE AN EXCELLENT TOOL TO:

- LOCATE POLLUTION;
- DETECT UNSAFE PRACTICES AND CONDITIONS ABOARD VESSELS AND WATERFRONT FACILITIES;
- LOCATE ANY AREAS ON THE RIVER WHERE NAVIGATIONAL HAZARDS EXIST; AND,
- BY OUR PRESENCE, DETER WOULD-BE VIOLATORS. WE REACT IMMEDIATELY TO ANY REPORT OF POLLUTION.

DESIGNATED WATERFRONT FACILITIES, SUCH AS BREAK BULK AND CONTAINERIZED CARGO HANDLING FACILITIES ALONG THE MIAMI RIVER, ARE INSPECTED AT LEAST ANNUALLY TO ENSURE COMPLIANCE WITH THE HAZARDOUS MATERIALS REGULATIONS CONTAINED IN TITLE 49, CODE OF FEDERAL REGULATIONS, PARTS 171 THRU 176, THE INTERNATIONAL MARITIME DANGEROUS GOODS CODE, AND THE DESIGNATED WATERFRONT FACILITY REGULATIONS CONTAINED IN TITLE 33, CODE OF FEDERAL REGULATIONS, PART 126. FREIGHT CONTAINERS ARE ALSO ROUTINELY SPOT CHECKED TO ENSURE THE HAZARDOUS MATERIAL REGULATIONS HAVE BEEN ADHERED TO. IN FISCAL YEAR 1984, 48 OF THE MOBILE MARINE OIL TRANSFER FACILITY OPERATIONS WERE MONITORED WHILE THEY WERE BUNKERING VESSELS TO VERIFY COMPLIANCE WITH THE REGULATIONS CONTAINED IN TITLE 33, CODE OF FEDERAL REGULATIONS, PARTS 154 AND 156. THE CAPTAIN OF THE PORT HAS ALSO RECENTLY BEEN TASKED WITH THE INSPECTION AND CERTIFICATION OF RECEPTION FACILITIES FOR WASTE OIL. THIS PROGRAM WILL BE CARRIED OUT IN ACCORDANCE WITH THE REGULATIONS ISSUED IN TITLE 33, CODE OF FEDERAL REGULATIONS, PART 158. HOT WORK PERMITS, FOR WELDING OR BURNING OPERATIONS ON THE FACILITIES OR VESSELS MOORED THERETO, ARE REQUIRED WHEN HAZARDOUS MATERIALS ARE LOCATED IN THE VICINITY.

THE COAST GUARD INSPECTS AND MONITORS CARGO OPERATIONS ON ACTIVE VESSELS TO ENSURE COMPLIANCE WITH THE REGULATIONS DEALING WITH VESSEL AND NAVIGATION SAFETY, MARINE SANITATION DEVICES, FINANCIAL RESPONSIBILITY FOR OIL POLLUTION REMOVAL COSTS, POLLUTION PREVENTION, THE LOADLINE CONVENTION, MARPOL, SHIPMENT OF HAZARDOUS MATERIALS, AND MERCHANT VESSEL MANNING. THE INSPECTION AND

MONITORING ARE CONDUCTED AT SIX MONTH INTERVALS, SO THE VESSEL IS VISITED AT LEAST SEMI-ANNUALLY BY A COAST GUARD BOARDING TEAM AT SOME PORT IN THE UNITED STATES.

UNDER THE BROAD AUTHORITY OF THE PORTS AND WATERWAYS SAFETY ACT, THE CAPTAIN OF THE PORT MIAMI HAS PLACED RESTRICTIONS ON VESSELS IN LAY-UP STATUS. IN THIS REGARD, THE CAPTAIN OF THE PORT HAS PREPARED VESSEL LAY-UP PROCEDURES WHICH DETAIL THE CONDITIONS AND RESTRICTIONS THAT MUST BE MET. THESE PROCEDURES ENSURE THAT THESE VESSELS ARE SAFE, ENVIRONMENTALLY SOUND, PRESENT NO UNDUE HAZARD TO THE PORT, AND DO NOT RESTRICT OR OBSTRUCT NAVIGABLE WATERS. AT THE PRESENT TIME THERE ARE ELEVEN VESSELS IN LAY-UP STATUS ALONG THE MIAMI RIVER. HOWEVER, A CURRENT PROBLEM ON THE MIAMI RIVER IS THE NUMBER OF VESSELS NOT IN A LAY-UP STATUS WHICH HAVE BEEN NEGLECTED AND ABANDONED. AT SOME STAGE, MANY OF THESE VESSELS HAVE BECOME A HAZARD TO THE PORT IN THE FORM OF POTENTIAL FIRE OR POLLUTION THREATS, OR HAVE BECOME A HAZARD TO NAVIGATION BY SLIPPING THEIR MOORINGS AND BLOCKING THE CHANNEL. WHEN THE CAPTAIN OF THE PORT DETERMINES THE VESSEL DOES POSE A HAZARD TO NAVIGATION HE WORKS CLOSELY WITH THE U.S. ARMY CORPS OF ENGINEERS WHO HAVE THE PRIMARY FEDERAL RESPONSIBILITY TO REMOVE WRECKS. IN THE CASE OF POLLUTION THREATS, THE COAST GUARD MAY TAKE ACTION UTILIZING THE POLLUTION FUND ESTABLISHED UNDER SECTION 311(K) OF THE FEDERAL WATER POLLUTION CONTROL ACT TO MITIGATE THE THREAT. I NOTE THAT LOCAL GROUPS HAVE ALSO BEEN VERY SUCCESSFUL IN OBTAINING OWNERSHIP OF A NUMBER OF VESSELS AND HAVE MADE USE OF THEM IN THE ARTIFICIAL REEF PROGRAM. THIS IS AN EXCELLENT SOLUTION TO THIS PROBLEM, AND WE SUPPORT IT WHOLE-HEARTEDLY.

ONE OF THE MOST IMPORTANT RESPONSIBILITIES EXECUTED BY THE CAPTAIN OF THE PORT IS HIS ENFORCEMENT OF THE FEDERAL WATER POLLUTION CONTROL ACT. IN 1984, CAPTAIN OF THE PORT MIAMI RECEIVED 14 REPORTS OF ~~SPILLS~~ OF OIL INTO THE MIAMI RIVER. TO DATE IN 1985, THERE HAVE BEEN 17 REPORTS OF OIL SPILLS. THERE HAVE BEEN NO REPORTED HAZARDOUS SUBSTANCE RELEASES ALONG THE MIAMI RIVER DURING THIS TIME FRAME. EVERY ONE OF THE REPORTED OIL SPILLS WAS INVESTIGATED, CIVIL PENALTY ACTION INITIATED WHEN A RESPONSIBLE PARTY WAS IDENTIFIED, AND/OR CLEAN UP ACTIONS TAKEN WHEN NEEDED. IN THEREE OF THESE INCIDENTS, THE CAPTAIN OF THE PORT INITIATED FEDERAL CLEAN-UP ACTION. THIS ACTION RESULTED IN THE EXPENDITURE OF \$5,627.21 FROM THE 311(K) POLLUTION FUND.

THIS CONCLUDES MY STATEMENT. I WILL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.